

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Ondigo LLC	:	
	:	
	:	CIVIL ACTION
<i>Plaintiff</i>	:	
	:	
v.	:	NO. 2:2020cv01126
	:	
intelliARMOR LLC	:	
	:	
<i>Defendant</i>	:	
	:	

**PLAINTIFF’S PROPOSED FINDINGS OF FACT
AND CONCLUSIONS OF LAW**

Plaintiff, Ondigo LLC, respectfully submit Plaintiff’s Proposed Findings of Fact and Conclusions of Law.

I. Proposed Findings of Fact

1. On or around July 2019, the parties entered into a purchase order through which Ondigo LLC (“Ondigo”) contracted to purchase various phone accessories for resale from intelliARMOR LLC (“intelliARMOR”) (the “Purchase Order”).

2. The terms of the Purchase Order were silent regarding the shipment or delivery date.

3. Prior to entering into the Purchase Order, the parties discussed and agreed that the goods referenced in the Purchase Order would be shipped within 60 days of the Purchase Order.

4. intelliARMOR led Ondigo to believe that all of the goods at issue had all necessary MFI and/or ETL certifications required for production at

the time of the Purchase Order. Ondigo therefore had no reason to anticipate any delays to the agreed upon shipment dates on account of the MFI and ETL certification processes.

5. Prior to the Purchase Order, intelliARMOR never informed Ondigo that the goods contained in the Purchase Order were custom made products.

6. On August 6, 2019, intelliARMOR received from Ondigo a deposit in the amount of \$45,595.00 for 50% of the price of the Purchase Order.

7. In September 2019, intelliARMOR represented to Ondigo that the goods from the Purchase Order would be shipped by September 15, 2019.

8. On October 17, 2019, Ondigo requested an update regarding the status of the Purchase Order.

9. On October 18, 2019, intelliARMOR stated that the goods from the Purchase Order would be shipped within 12 days.

10. On October 23, 2019, intelliARMOR stated that part of the Purchase Order would be shipped immediately and that the rest of the Purchase Order would be air shipped within 10 days.

11. On November 19, 2019, intelliARMOR notified Ondigo that part of the Purchase Order was shipped on that date.

12. Part of the Purchase Order, consisting of 2,000 wall chargers, was not included in the November 19, 2019 shipment.

13. On or around November 20, 2019, Ondigo notified intelliARMOR that it would not accept delivery of the Purchase Order.

14. On December 19, 2019, Ondigo notified intelliARMOR, via email, that it would not accept delivery of the Purchase Order.

15. intelliARMOR never shipped the 2,000 wall chargers that Ondigo ordered through the Purchase Order.

16. intelliARMOR refused to return the \$45,595.00 deposit paid by Ondigo.

17. Ondigo suffered lost profits in the amount of \$90,000.00 as a result of intelliARMOR's failure to make timely shipment of the goods from the Purchase Order.

II. Proposed Conclusions of Law

1. Prior to agreeing upon the Purchase Order, the parties understood and agreed that intelliARMOR would ship the goods from the Purchase Order within 60 days from the Purchase Order. Because the Purchase Order was silent regarding the timing of shipment, the parties' prior understanding and agreement as to the timing of shipment was incorporated into the parties' agreement.

2. The parties' agreement as to the timing of shipment was never modified by agreement of the parties.

3. intelliARMOR's failure to make timely shipment of the goods from the Purchase Order constituted a material breach of the parties' agreement.

4. Ondigo promptly terminated the parties' agreement upon learning that intelliARMOR delayed shipment beyond what had been expressly promised by intelliARMOR.

5. Ondigo properly terminated the parties' agreement before intelliARMOR shipped a material portion of the Purchase Order.

6. Ondigo suffered damages in the amount of \$135,595.00, plus interest.

Respectfully Submitted,



DAVID HUSSEY
Counsel for Plaintiff

Dated: December 3, 2021